IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

FRIDAY, THE 19TH JANUARY 2007 / 29TH PAUSHA 1928

WP(C).No. 18947 of 2006(E)

PETITIONER:

MR.SUNIL KUMAR.E.S,
S/O.SUKUMARAN E.M., ELLETH THEKKETHIL HOUSE,
KAVIL DESOM, MUKUNDAPURAM TALUK,
P.O.KODAKARA, THRISSUR DIST.

BY ADV. SRI.K.B.MOHANDAS
SRI.LELLULAL T.G.THUNDATHIL

RESPONDENTS:

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1. THE MANAGER, HDP SAMAJAM HIGHER SECONDARY SCHOOL, P.O.EDATHIRINJI, MUKUNDAPURAM TALUK, THRISSUR DISTRICT.

2. THE PRINCIPAL, HDP SAMAJAM HIGHER SECONDARY SCHOOL, P.O.EDATHIRINJI, MUKUNDAPURAM TALUK, THRISSUR DISTRICT.

3. THE DISTRICT EDUCATIONAL OFFICER, IRINJALAKUDA EDUCATIONAL DISTRICT, P.O.IRINJALAKUDA, THRISSUR DT.

4. THE DIRECTOR, HIGHER SECONDARY EDUCATION, HOUSING BOARD BUILDINGS, SANTHI NAGAR, THIRUVANANTHAPURAM-1.

BY ADV. SRI.P.B.SAHASRANAMAN
SRI.K.JAGADEESH
SRI.T.S.HARIKUMAR
GPVT.PLEADER SRI.T.T.MOHAMMED

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 3-10-2006, THE COURT ON 19-1-2007 DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

Ext.P1: A true copy of order No.Acd C4/3460/HSE/02 dated 21-11-2003 of the 4th respondent sanctioning appointment of the petitioner as HSST (English) in HDPSS Edathirinji as HSST(English) with effect from 1.7.2003

Ext.P2: A true copy of the order GO (Rt) No.2332/03/G.Edn. dated 21-6-2003 of the Government of Kerala Higher Education Department sanctioning leave without allowance to Smt. Annie George up to 31-5-2006

Ext.P3: True copies of Page Nos. 1 to 4 of the service book of the petitioner dated nil

Ext.P4: True copy of page Nos. 15 to 23 of the service book of the petitioner dated nil

Ext.P5: True copy of relevant portiion of Mathrubhumi daily dated 14-6-2006 containing advertisement made in the Mathrubhuli Thozhil vartha dated 24-06-2006 inviting applications from qualified candidates for the post of HSST (English) to HDPS HSS

Ext.P7: True copy of the experience cum conduct certificate dated -6-2006 issued to the petitioner by the 2nd respondent

Ext.P8: True copy of the application dated 21-6-2006 made by the petitioner to the 1st respondent

Ext.P9: True copy of the postal receipt for sending P8 application through registered post.

Ext.P10: True copy of the postal acknowledgment of receipt of Ext.P8 on 23-6-2006 by the 1at respondent

Ext.P11: True copy of the application dated nil given by the petitioner to 2nd respondent containing acknowledgment and endorsement by the 2nd respondent that the date of interview in pursuance of Ext.P7 shall be let known to the petitioner dated nil

//True copy//

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The Division Bench in the above case, after considering the question whether dependants of those who died in harness while working in High School section or Upper Primary section of an aided school can claim the benefit of Rule 51B of Chaper XIV-A KER and seek appointment in the Higher Secondary Section of the school under the same management, answered the above question in the negative. The Division Bench took the view that the entire rules in the K.E.R including Chapter XIA-A in which Rule 51-B appears will not apply to Higher Secondary School Teachers. It was further held that Rule 51B only applies to teachers in the aided High Schools and Primary Schools. Unless Rule 51B is incorporated in Chapter XXXII , it may not be possible to contend that the benefits of employment assistance available to the dependants of aided High School and Primary school Teachers cannot be extended to the vacancies available in Higher Secondary Section. Rule 51A also falls under Chapter XIV-A KER. Applying the ratio enunciated in the decision cited supra, it has to be held that petitioner is not entitled to get the benefit of Rule 51A. Therefore writ petition is liable to be dismissed. I do so.